

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CHEQUE FINANCIAL, LLC,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
EVOLVE BANK & TRUST, INC.)
)
Defendant.)

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant, Evolve Bank & Trust (“Defendant” or “Evolve”), without waiving and subject to all of its defenses, hereby removes this case pursuant to 28 U.S.C. § 1332, 1441, and 1446 from the Superior Court of Fulton County, Georgia to the United States District Court for the Northern District of Georgia. As explained below, this Court has jurisdiction over this action because there is complete diversity of citizenship between Plaintiff and Defendant, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

In support of this removal, Evolve further states as follows:

I. INTRODUCTION

1. On April 21, 2025, Plaintiff Cheque Financial, LLC (“Plaintiff” or “Cheque”) filed a Complaint in the Superior Court of Fulton County, Georgia, captioned Cheque Financial, LLC v. Evolve Bank & Trust, Inc., Case No. 25CV005354 (the “State Court Action”). *See* Compl., attached hereto as part of Exhibit “A.”

2. Pursuant to 28 U.S.C. § 1446(a), a copy of the entire state court file is attached as collective Exhibit “A.”

3. The Court has subject matter jurisdiction under 28 U.S.C. § 1332, and this action is removable under 28 U.S.C. § 1441(b), in that it is a civil action between citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

II. REMOVAL IS PROPER BECAUSE THIS COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. § 1332(a).

4. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity between the Plaintiff and the Defendant, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. See 28 U.S.C. § 1441(a), (b)(2).

A. There is Complete Diversity of Citizenship Between Plaintiff and Defendant.

5. Plaintiff is a Georgia limited liability company. *See Compl., ¶ 1.* According to the Georgia Secretary of State’s corporations search website, Cheque’s principal place of business is located at 2038 Rogers Lake Road, Lithonia, Georgia 30058. Cheque’s managing member is Raymond Berrones, Jr., 4553 Rivercliff Drive, Lilburn, GA 30047. In its State Court Complaint, Cheque alleges that it is a “family owned and operated business.” *See Compl., ¶ 4.* Evolve does not know how many members Cheque has but based on the allegations of the State Court Complaint, it appears the members are residents of Georgia and thus Cheque is a citizen of Georgia for purposes of a diversity analysis.

6. Defendant Evolve is, and was at the time Plaintiff commenced this action, a corporation organized and existing under the laws of the State of Arkansas. *See Compl., ¶ 2.* While Evolve has a branch in Georgia, its principal place of business is located in Memphis, Tennessee. Accordingly, for purposes of diversity jurisdiction, Evolve is a citizen of Arkansas and Tennessee.

See 28 U.S.C. § 1332(c)(1) (“[A] corporation shall be deemed to be a citizen of every State . . . by which it has been incorporated and of the State . . . where it has its principal place of business[.]”).

7. Upon information and belief, no member of Cheque is a citizen of either Arkansas or Tennessee.

8. Thus, there is complete diversity of citizenship between Cheque and Evolve.

B. The Amount in Controversy Requirement is Satisfied.

9. Pursuant to 28 U.S.C. § 1446(c)(2)(B), removal is proper if the Court finds, by a preponderance of the evidence, that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

10. Plaintiff asserts commercial claims seeking in excess of \$1,200,000 in alleged damages. *See Compl., ¶¶ 15 - 21.*

11. Further, it is apparent from the Complaint that the amount in controversy exceeds \$75,000 because Plaintiff seeks punitive damages. *See Compl., ¶¶ 50-51.* As such, even without the claims for actual and compensatory damages, Plaintiff’s claim for punitive damages in and of itself establishes the requisite amount in controversy.

12. It is, therefore, clear that Plaintiff seeks an amount in excess of \$75,000, exclusive of interest and costs.

III. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.

13. The Superior Court of Fulton County, State of Georgia, is located within the Northern District of Georgia, Atlanta Division, and venue for this action is proper in this Court because the Northern District of Georgia, Atlanta Division is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

14. Under 28 U.S.C. § 1441(b)(2)(A), the consent of all properly joined and served defendants is required.

15. Evolve is the lone defendant and consents to removal.

16. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders and other documents in the State Court file are attached as Exhibit A.

17. Moreover, with the filing of this Notice of Removal, Evolve is paying the prescribed filing fee, filing proof of filing the Notice with the Clerk of the State Court along with proof of service on all adverse parties, and complying with all local rules.

18. The State Court Complaint was filed on April 21, 2025. To the extent there is an issue with service on Evolve, Evolve waives service.

19. Therefore, Evolve's Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

20. If any question arises as to the propriety of the removal of this action, Evolve requests the opportunity to present a brief and request oral argument in support of removal.

21. Nothing in this Notice of Removal shall be interpreted as a waiver of relinquishment of any of Evolve's rights to assert any defense or affirmative matter, including, but not limited to, the defenses of: (1) lack of jurisdiction over the person; (2) improper venue; (3) improper joinder of claims and/or parties; (4) failure to state a claim upon which relief can be granted; (5) failure to join an indispensable party(ies); (6) statute of limitations as a bar; (7) preemption; or (8) any other pertinent defense available under Rule 8 and/or 12 of the Georgia or Federal Rules of Civil Procedure, any state or federal statute, or otherwise. Provided, however, that Evolve consents to service and waives any issues with service on it.

WHEREFORE, Defendant respectfully removes this action from the Superior Court Fulton County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted, this the 28th day of April 2025.

EVOLVE BANK & TRUST

/s/ Righton Lewis

Righton Lewis,
GA Bar No. 215211

ONE OF ITS ATTORNEYS

OF COUNSEL:

Righton Lewis, Esq.,
GA Bar No. 215211.
BUTLER SNOW LLP
1170 Peachtree Street NE, Ste. 1900
Atlanta, GA 30309
Telephone: (678) 515-5000
Facsimile: (678) 515-5001
righton.lewis@butlersnow.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading has been served via the Court's CM/ECF system and via hand delivery, this the 28th day of April, 2025 upon:

Cheque's Counsel:

Ramsey A. Knowles, Esq.
Christopher W. Timmons, Esq.
Karen E. Bain, Esq.
Jordan V. Davies, Esq.
KNOWLES GALLANT TIMMONS, LLC
6400 Powers Ferry Road – Suite 350
Atlanta, GA 30339
(404) 818-7330
rknowles@kgtfirm.com
ctimmons@kgtfirm.com
kbain@kgtfirm.com

jdavies@kgtfirm.com

s/ Righton Lewis

Righton Lewis

GA Bar No. 215211.

CERTIFICATE OF SERVICE

I, Righton Lewis, one of the attorneys for Defendant Evolve Bank and Trust, electronically filed the foregoing Notice of Removal with the Clerk of Court using the Court's ECF system, which sent notification of such filing to the following counsel of record:

Ramsey A. Knowles, Esq.
Christopher W. Timmons, Esq.
Karen E. Bain, Esq.
Jordan V. Davies, Esq.
KNOWLES GALLANT TIMMONS, LLC
6400 Powers Ferry Road – Suite 350
Atlanta, GA 30339
(404) 818-7330
rknowles@kgtfirm.com
ctimmons@kgtfirm.com
kbain@kgtfirm.com
jdavies@kgtfirm.com

This the 28th day of April, 2025.

/s/ Righton Lewis

GA Bar No. 215211.